

VLADECK, RASKIN & CLARK, P.C.

ANNE L. CLARK
(212) 403-7332
EMAIL: aclark@vladeck.com

April 10, 2024

VIA ECF

Honorable Arun Subramanian
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Tracy Schoenadel v. YouGov America, Inc., Case No. 22-CV-10236

Dear Judge Subramanian:

We represent Plaintiff Tracy Schoenadel in the above-captioned action against Defendant YouGov America, Inc. (“YouGov”). In accordance with Your Honor’s Individual Rules and Practices, Rule 11(C)(ii), Plaintiff respectfully seeks leave to file under seal nineteen exhibits cited as evidence in Plaintiff’s Response to Defendant’s Local Rule 56.1 Statement of Undisputed Material Facts and Statement of Additional Material Facts, in support of Plaintiff’s Opposition to Defendant’s Motion for Summary Judgment, to be filed by April 12, 2024. Defendant has also requested that an additional six documents be filed under seal and that two documents be filed with redactions. Plaintiff opposes filing those documents as such.

Plaintiff respectfully requests permission to file the following documents under seal: YGA173, YGA569, YGA5100, YGA5138, YGA8067, YGA11470, YGA30520, YGA32617, YGA8290, YGA54109, YGA22436, YGA23339, YGA45366, YGA59443, YGA54076, YGA54081, YGA54085, YGA54098, and YGA54348. These documents are filled with confidential YouGov client names and financial information related to YouGov’s business and compensation structure. The proposed documents were marked as “Confidential” or “Highly Confidential” pursuant to the parties’ Confidentiality order, ECF No. 24.

Defendant has requested that the following documents be filed under seal: YGA 36498, YGA 15433, YGA36492, YGA5126, YGA491, and YGA493. Plaintiff respectfully requests that this Court reject Defendant’s request for the following reasons:

- YGA15433: This document includes an email exchange among several YouGov senior leaders, including the former Chief Executive Officer (“CEO”). In this email, the former CEO accuses a former YouGov senior executive of making up a gender discrimination claim as a way to “get more in settlement.” Defendant asserts that the document should be filed under seal because it “contains employment performance discussions about another employee.” Plaintiff opposes filing this under seal because a central argument in Plaintiff’s case is that YouGov had a pattern of discrimination against women. This document provides critical evidence in support of that argument.

Hon. Arun Subramanian

April 10, 2024

Page 2

- YGA36492: This document includes an email exchange among two former YouGov employees in which one employee complains of employment discrimination. The emails are forwarded to the former CEO and former Chief Operations Officer. Defendant asserts that the document should be filed under seal because it “contains client names [and] discusses employment history of other employees.” Plaintiff opposes filing this under seal because a central argument in Plaintiff’s case is that YouGov had a pattern of discrimination against women. Additionally, during YouGov Chief Governance & Compliance Officer’s deposition, she accused these two employees of being “in cahoots about wanting to exit the company on the best terms possible.” (See also, Declaration of Tilly Heald in Support of YouGov Motion for Summary Judgment, ECF. No. 82) Accordingly, this document provides critical evidence in support of Plaintiff’s argument.
- YGA5126 and YGA59443: These documents include an external investigation report and attorney interview notes regarding Plaintiff’s formal grievance, where Plaintiff alleges, inter alia, gender discrimination and retaliation. The report and investigation were done by YouGov’s counsel. Defendant request that these documents be filed under seal because they contain company financial information, information from other employees, and client names. Plaintiff opposes filing both documents under seal but consents to redating YouGov’s financial information and client names. Plaintiff opposes filing this under seal because a central argument in Plaintiff’s case is that YouGov had a pattern of discrimination against women. This document provides critical evidence in support of that argument.
- YGA491 and YGA 493: These documents concern a former YouGov employee’s internal grievance regarding discrimination and retaliation. Defendant requests that both documents be filed under seal as “they contain information regarding other employee’s employment history.” Plaintiff objects to filing these documents under seal because they provide critical evidence in support of Plaintiff’s argument that YouGov had a pattern of discrimination and retaliation against women.

Defendant has also requested that Plaintiff file documents YGA514 and YGA36498 with redactions.¹ Plaintiff respectfully requests that this Court reject Defendant’s request for the following reasons:

- Exhibit YGA514: The document is an open letter that thirty-nine YouGov employees signed in April 2021, complaining about a sexist comment made by a senior YouGov leader, as well as complaints of companywide discrimination. The document contains the list of the thirty-nine employees who signed the letter. Defendant asserts that the employee names at the bottom of the letter should be redacted because it contains “information regarding other employees.” Plaintiff objects to redacting those employees’ names as it is an open letter that was circulated widely across YouGov.

¹ Pursuant to Your Honor’s Individual rules, Plaintiff will contemporaneously file these documents with Defendant’s proposed redactions highlighted, as well as the documents that the parties seek leave to file under seal.

Hon. Arun Subramanian

April 10, 2024

Page 3

- Exhibit YGA36498: This document includes notes regarding a former YouGov employee's exit interview. The document details that the employee's reason for leaving YouGov was, *inter alia*, the lack of diversity across the organization, that she did not see women in senior roles, and that she accepted another role at an unnamed organization because it had factors that YouGov lacked, including diversity. Defendant asserts that YGA36498 should be redacted from everything under the employees' position because the employee's reason for leaving YouGov "relates to their employment history." Plaintiff opposes filing this document under seal. It does not contain any client information and it shows that other employees also thought that YouGov was a terrible place for women, which is a central allegation in this matter.

Respectfully submitted,

/s Anne L. Clark

ALC:bw

cc: Counsel of record (via ECF)

Application granted. It is appropriate to seal confidential financial and client information, and the parties' protective order provided that materials marked "confidential" could only be shared with a limited number of people. So those documents may be filed under seal.

But the other documents that defendant wishes to be sealed concern matters bearing on plaintiff's allegations of discrimination. And "documents submitted to a court for its consideration in a summary judgment motion are—as a matter of law—judicial documents to which a strong presumption of access attaches, under both the common law and the First Amendment." *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 121 (2d Cir. 2006). "The burden of demonstrating that such documents should be sealed rests on the party seeking such action." *Lytle v. JPMorgan Chase*, 810 F. Supp. 2d 616, 621 (S.D.N.Y. 2011). Defendant has not even responded to plaintiff's motion to explain why these documents should be sealed. In any event, there is a "strong presumption of access" to documents that will "directly affect" the Court's adjudication of a case, which appears to be the situation with these documents. *Richmond v. Montefiore Med. Ctr.*, 2023 WL 6211978, at *2 (S.D.N.Y. Sept. 25, 2023). As such, plaintiff's motion is granted, and these documents should be refiled and made publicly available.

The Clerk of Court is directed to terminate the motion at Dkt. 88.

SO ORDERED.



Arun Subramanian, U.S.D.J.

Date: April 19, 2024